

Serial No. 10/534,550

Amendment in Response to Office Action dated April 10, 2007

Date of electronic submission of Amendment: May 29, 2007

REMARKS/ARGUMENTS

Claims 1-5, 12, 21 and 25-33 are pending. Claims 6-11, 13-20 are canceled.

Claims 4, 12, 21, 24, 26 are rejected under 35 USC 112, second paragraph, as being indefinite.

Claim 4 is indefinite due to the use of “and/or”. Alternative limitations in claims, however, do not *per se* render claim language indefinite. MPEP 2173.05(h). In the instance where a list of potential alternatives can vary, an ambiguity may arise but the Examiner is obligated to explain why there is confusion. MPEP 2173.05(h) III “OPTIONALLY”. Such was not done in the final Office Action and thus the rejection warrants withdrawal. Further, a search on the USPTO patent database of the phrase “and/or” in claim language reveals its use in over 13,000 patents, which suggests such a phrase does not render the claims indefinite and is in conformance with US Patent and Trademark Office policy.

Claims 12 and 24 are deemed to have an improper Markush group due to the phrase “a group consisting of”, instead of “the group consisting of”, and is thus indefinite. Such a finding is traversed since no rationale was provided as to why the choice of “a” as opposed to “the” in a Markush group renders the claim indefinite. Nevertheless, claims 12 and 24 are amended so the Markush group phrase reads “the group consisting of”. Claim 21 now recites “disconnect device”, which is consistent with paragraph [0038] of the specification. Claim 26 is amended to recite Markush group format so as to overcome its indefiniteness rejection.

Claims 1-5, 12, 21 and 24-33 were rejected as being unpatentable under 35 USC 103(a) over US Patent No. 5,572,984 to Alden et al. in view of US Patent

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No. 3,858,091 to Wilkinson and Vent Master Modular Distribution System (MDS).

These rejections are traversed.

Alden et al. does NOT disclose any counterpart to the recited utility chassis within the frame or the recited clusters each with different types of connectors suited to provide access to utilities. Fig. 3 of Alden fails to show interchangeable appliance units, in contrast to the contention otherwise in the Office Action. For convenience, Fig. 3 of Alden et al. is reproduced below and it is clear that its freezer 52, stovetop and microwave are not readily interchangeable in the shelving compartments of Fig. 3, because each are known to have their own unique utility requirements. Storage cabinets are in the middle.

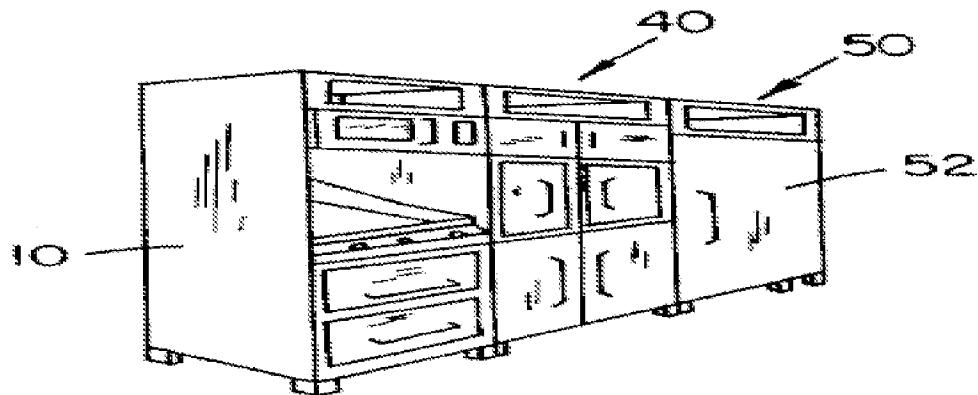


Figure 3

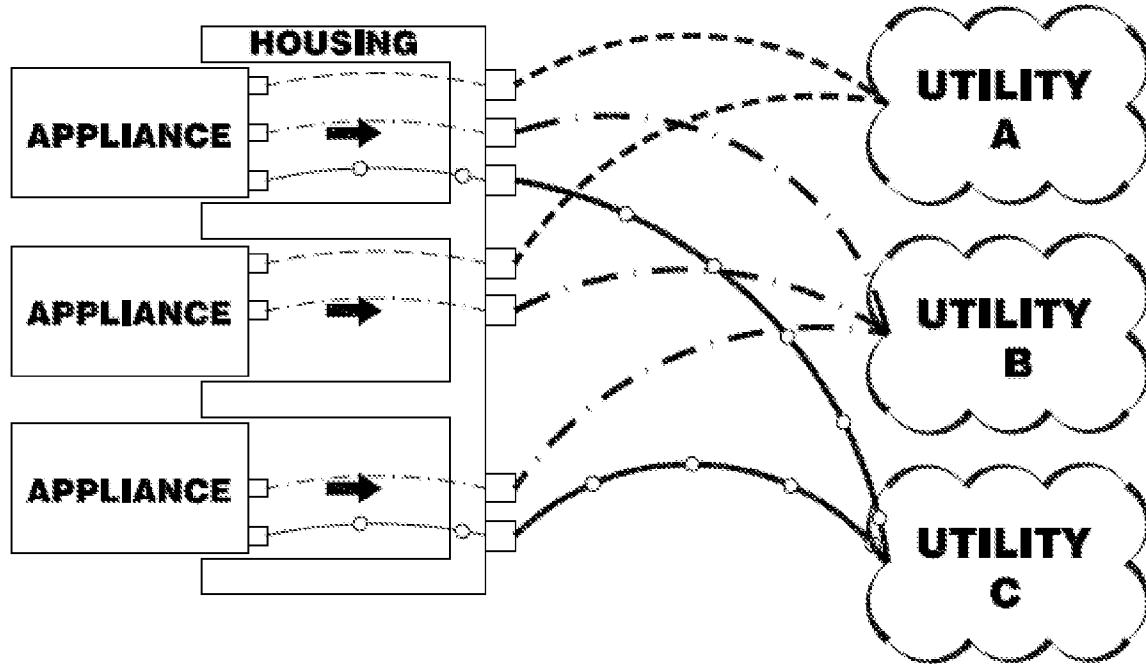
Alden et al. describes a single frame, capable of engaging multiple appliances that are energized through the introduction of utilities in a conventional manner. Multiple utility formats may be accommodated, provided there are conventional utility receptacles affixed to the housing. Alden et al. requires that skilled tradespersons extend a connection between the utility source and the conventional receptacle affixed to the housing on an individual basis. Only those

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utility sources would be provided within each appliance cavity as required by that appliance. The tradesperson would also be responsible for an indirect interconnection between the conventional receptacle affixed to the housing and the appliance, as required. Alden et al. may be schematically illustrated as:

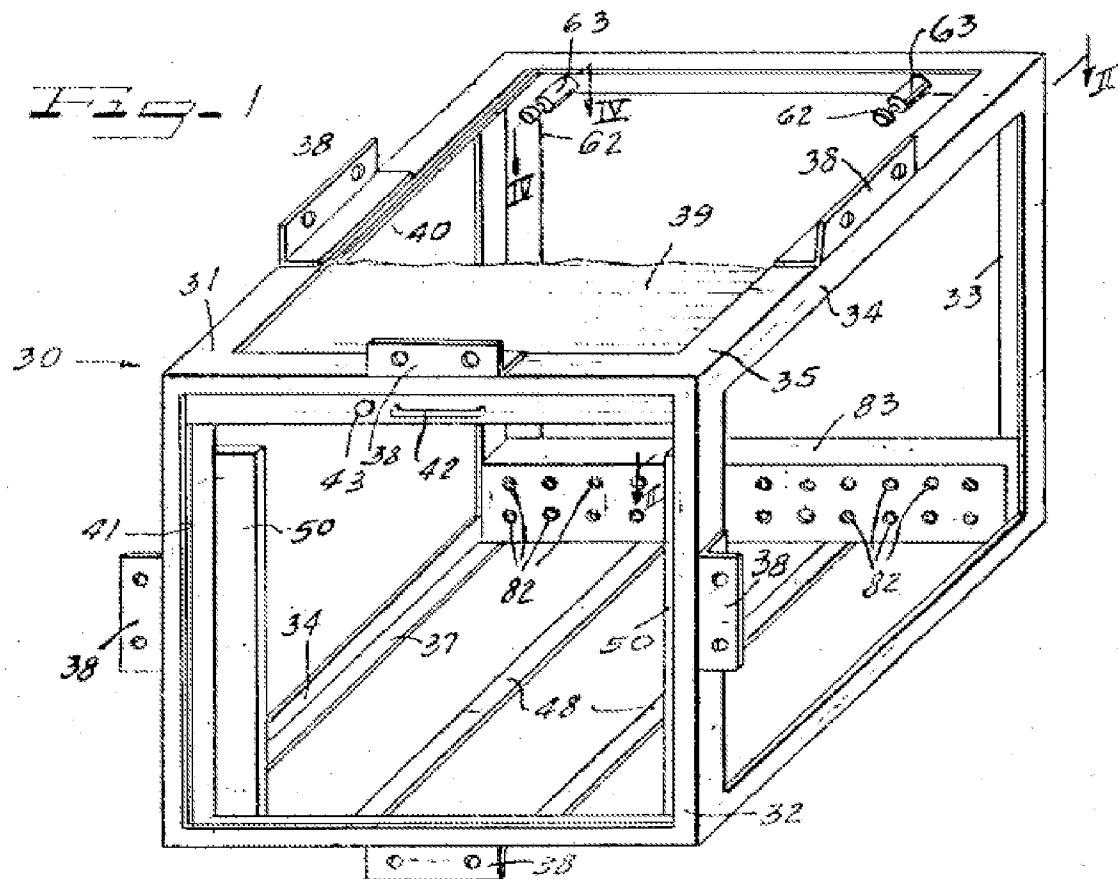


The Office Action turns to Wilkinson to show at least one connector 82 for connecting the appliance units to utilities as needed. It appears, however, that instead of providing for different kinds of utility connectors, the jack bar 83 of Wilkinson contains jack sockets or contacts 82 each of an identical type suited to provide just one kind of utility service: electrical connection. In contrast, claim 1 of the present application recites "a plurality of clusters each with different types of connectors suited to provide access to utilities".

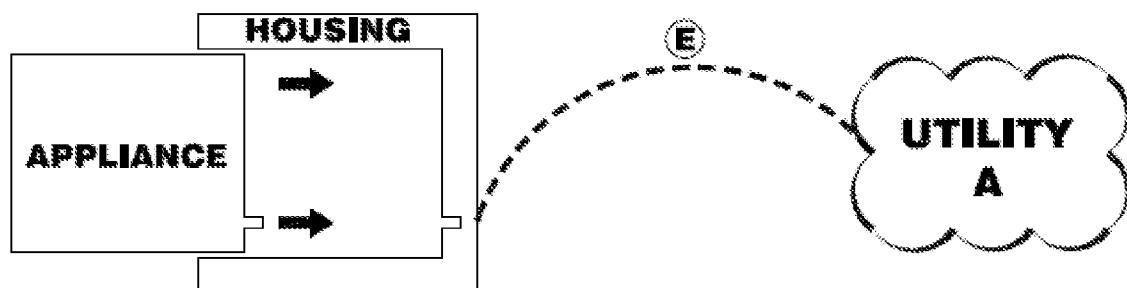
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Wilkinson describes a single frame, capable of accommodating a single appliance with a single utility source, which is directly connected to a stationary housing to energize connections within the housing. When engaged, the housing energizes the appliance with the single utility source available via an interface of a male and female connection format. Thus, the Wilkinson single frame concept may be illustrated by the following schematic.

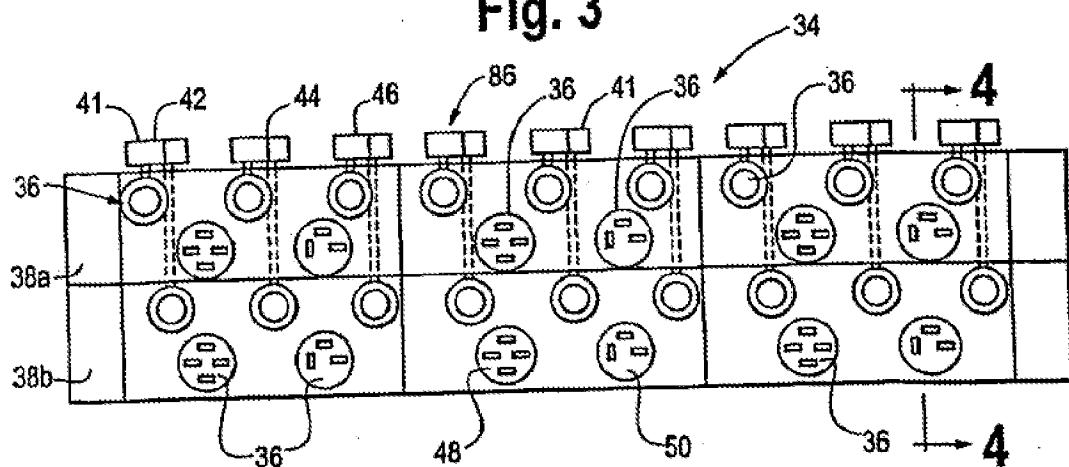


The Office Action recognizes that neither Alden et al. nor Wilkinson reveal the cluster concept for utility connections or the utility chassis within the frame.

To make up for this deficiency in Alden et al. and Wilkinson, the Office Action turns to Vent Master Modular Distribution System (MDS), hereinafter referred to as "MDS". MDS is relied upon to show providing a utility chassis with clusters each with different types of connectors in relative positions within associated ones of the clusters in a manner that is identical for each of the clusters.

However, a comparison between Fig. 3 of the present application and the MDS Raceway Schematic (each is reproduced immediately following) reveals otherwise. While successive clusters of different kinds of utility connections in Fig. 3 of the present application are uniform or identical, the branch plumbing connections in the MDS Raceway Schematic are not so shown.

Fig. 3

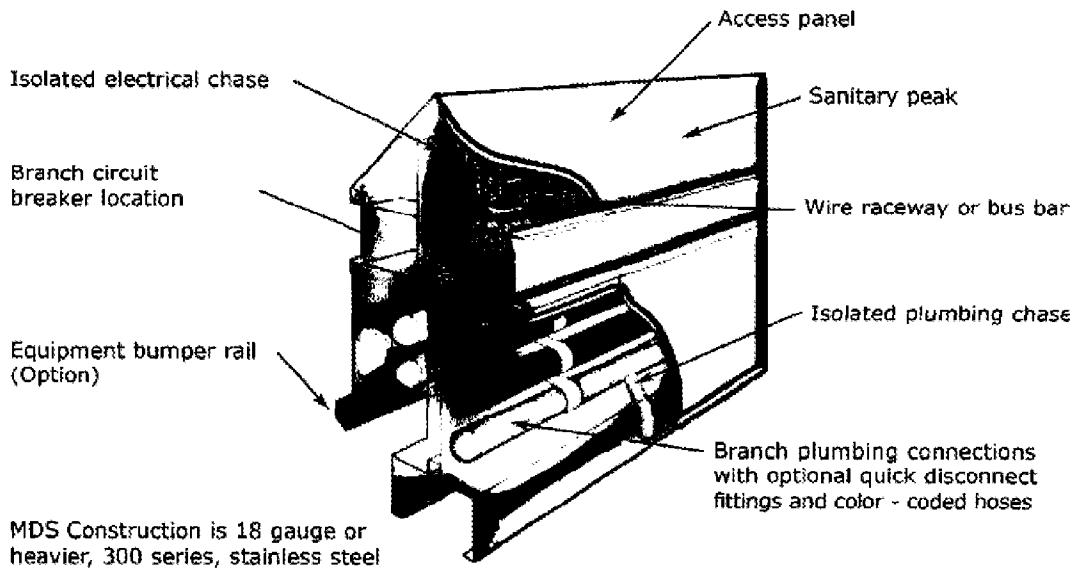


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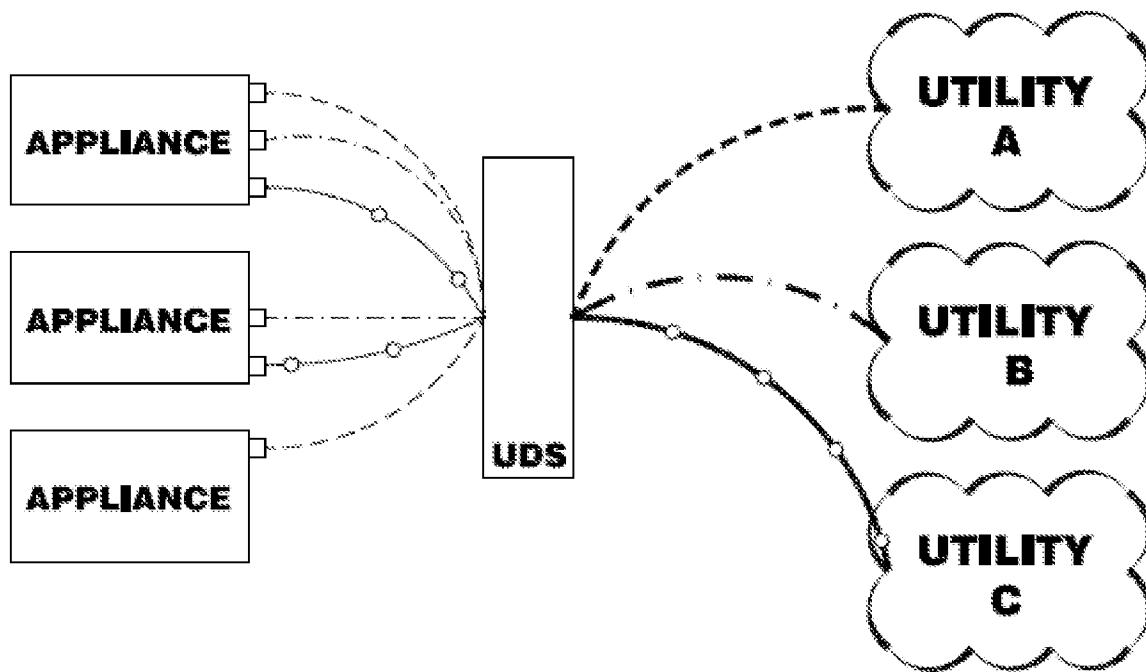
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MDS Raceway Schematic



MDS simply provides a chase for utilities, which are extended out of the bottom of the MDS chase. Indirect connectors are utilized to connect the equipment to the utility source conveyed by the MDS. While modifications are possible with the MDS, the efforts of a skilled electrician, plumber, or other such trades people are required to make such modifications. The following schematic illustration of the MDS system helps clarify its role as a raceway or chase.



The MDS system (or UDS as a generic term for utility distribution system) is comprised of a housing that accepts a variety of utility formats and includes distribution of those utilities through the housing. The required utilities for each appliance are extended from the MDS to the appliance via indirect connection. Individualized utility access points are provided based upon the utility requirements of each individual appliance. Only those utilities required for the individual appliances are provided at the appliance's indicated location. Thus, utility connection configurations from the MDS to the appliance are not uniform. Indirect connection formats are used between the MDS and the appliance units.

Further, the utility lines in the MDS raceway are not contained within the same "frame" that holds interchangeable appliance units in contrast to the recitation of claim 1. Thus, the MDS raceway is separate and as such must be separately accommodated in an installation, which requires a skilled tradesperson in the art to extend connections as necessary to enable access to utility service within the MDS raceway by appliances.

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That is, to employ the MDS system, a skilled tradesperson in the art is required to install the system to flow through the appropriate appliance(s). MDS simply provides a chase or raceway for utilities, which are extended out of the bottom of the MDS chase. Indirect connectors are utilized to connect the equipment to the utility source conveyed by the MDS.

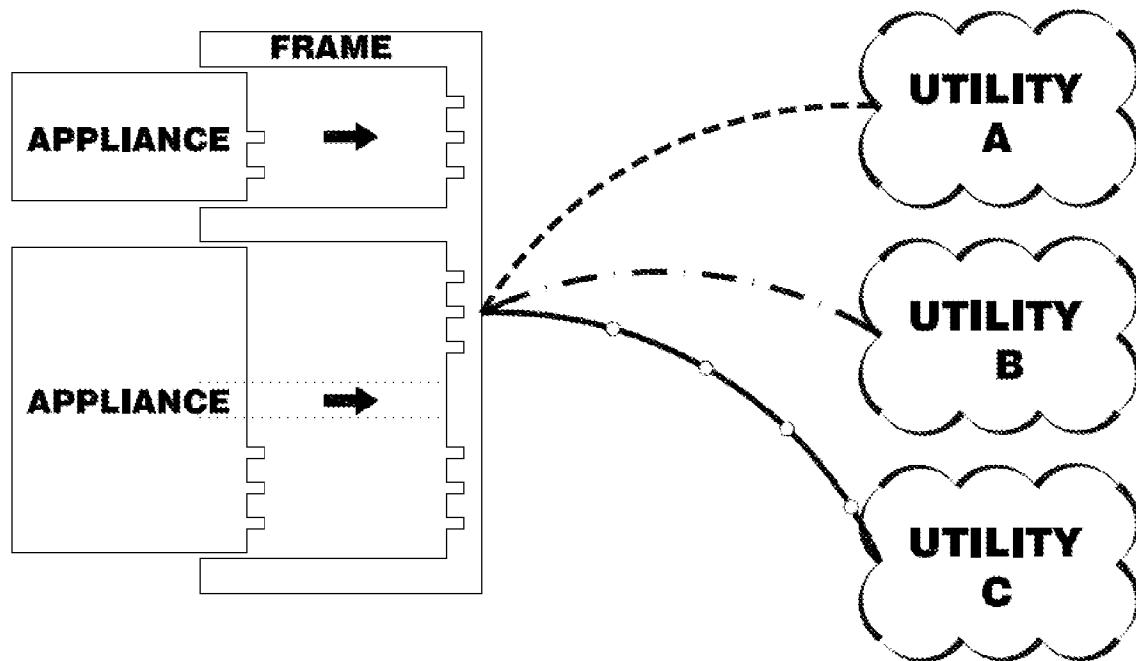
In the event that a piece of equipment is relocated, the internal distribution conduits of the UDS may be accessed by skilled tradespersons, who must individually extend the required utilities for the appliance to its new location if such required utilities do not already exist at that location.

The MDS serves the same function as a standard building wall, with utilities running through the available space. It has the added advantage of pre-wiring and pre-plumbing as an option, as well as improved access for long-term modifications. Advantages of an MDS include removable access panels for easier (though still laborious) modifications for utility changes, options for the MDS to be pre-piped and pre-plumbed at the factory, and easier cleaning as most provide a clearance between the chase and the facility floor.

The MDS is designed to work with existing foodservice appliances and does not in any way support the interchangeability claims *within* the equipment footprint.

In contrast, the present invention features a frame structure, which may be energized by single or multiple utility formats (i.e., “different types of connectors”). Indeed, the frame may be viewed as an internal distribution system with connected utilities relayed to a series of uniform (“identical”) connection clusters in the frame for engagement of the appliances. All utilities are available from each cluster at all times, yet only the utilities required by the appliance are engaged for direct interconnection. Those utilities that are not

required are not engaged, and thus do not distribute within the specific cluster. No indirect connections are required and no skilled tradesperson work is needed for making connections between the appliance and the utilities within the housing, in contrast to Alden and UDS. Further, the present invention as claimed offers the capability for engagement of appliances of varying size, yet all will work with the utility cluster configuration. The following schematic is illustrative of the claimed invention:



Neither Alden et al. nor Wilkinson disclose the availability of a utility that may or may not need to be used. In contrast, the pending independent claims 1 and 35 call for a utility chassis that contains utilities. The utility chassis in effect renders the utilities available at all times throughout the frame so that the utility needs of the component determine whether or not the utility is "tapped."

Indeed, Alden et al. does not indicate that the utilities are readily available and specifically refers to the utilities as being provided in a "conventional manner." In other words, the utility hook ups will be "mounted" on the back wall of said unit for coupling appliances to an energy source. This will require work by other trades

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(i.e. electrician, plumber, etc.), whereas the subject matter of the pending independent claim 1 offers the ability for someone to modify the system (i.e. restaurant operator) who is NOT skilled in the art of construction, because provision for utilities is made readily available as an integral part of the frame structure with appropriate connectors.

Further, col. 3 lines 14-17 of Alden et al. states that a MODIFIED chassis could provide a module 50 that combines the center, lower and upper portions to provide a freezer compartment 52. Col. 3 lines 18-21 of Alden et al. goes on to comment that the basic module of this invention can be SUBSTANTIALLY MODIFIED as desired to accommodate conventional types of appliances dimensioned to fit in the standard chassis spaces.

In contrast, claim 1 recites that the relative positions of each of the different types of connectors be the same for each of the clusters. Such a recitation is supported in paragraph [0038] and obviates the need for substantial modifications to the frame to accommodate different types of appliance units. As long as the utility connections of the appliance units are compatible with the relative positions of the different types of connectors, which are the same for any of the clusters, the enclosure defined by the frame will be able to accommodate the appliance unit by appropriate placement of the guides or dividers. Certainly no substantial modification is necessary, unlike the situation in Alden et al.

Wilkinson discloses a quick release mounting structure for modules, but it only discloses a frame suited to accommodate a single, solitary appliance unit. For instance, pending claim 4 recites advantages in providing for a utility chassis suited to accommodate powering appliances within the frame or those within an adjacent frame. Such is well beyond the disclosure of Wilkinson, which fails to envision making provision for multiple appliance units to be operated simultaneously and carried by a common frame.

A modification of Alden et al. by Wilkinson would result in a frame containing independent appliance modules each with its own connector in isolation from each other, connecting each appliance to a separate power source as opposed to sharing a common utility chassis within the frame. Further, modifying by MDS would merely place the utility raceway separate and outside the frame and require that a skilled tradesperson customize the connections between the raceway utility lines and the appliances.

Such contrasts from the recitation of claim 1, which provides for a utility chassis within the frame as well as for identical clusters of connectors. Further, Alden et al., Wilkinson and MDS do not reveal the uniform cluster concept of connectors and their identical relative positions as set forth in claim 1. Such a feature as set forth in claim 1 is advantageous in accommodating one or more appliance units of the same or different type that need to access the same or different utilities to operate.

As concerns claim 2, the recited invention calls for removable guides as mentioned in paragraph [0017] that render the frame structure divisible into areas as fractional components of the same frame structure. Example: One can have a combination of widths of components to comprise 36" section. Neither Alden et al. nor Wilkinson speak to the fractional capabilities within a common footprint, and certainly do not make it easy. Would likely require "substantial modification" again to do so. Modifying Alden et al. and Wilkinson by MDS would not make up for this deficiency.

Hypothetical modifications of Alden et al. by Wilkinson result in a departure from the claimed invention that cannot be rectified by reliance on MDS. Thus, the proposed modification of Alden et al. by Wilkinson and MDS cannot yield the

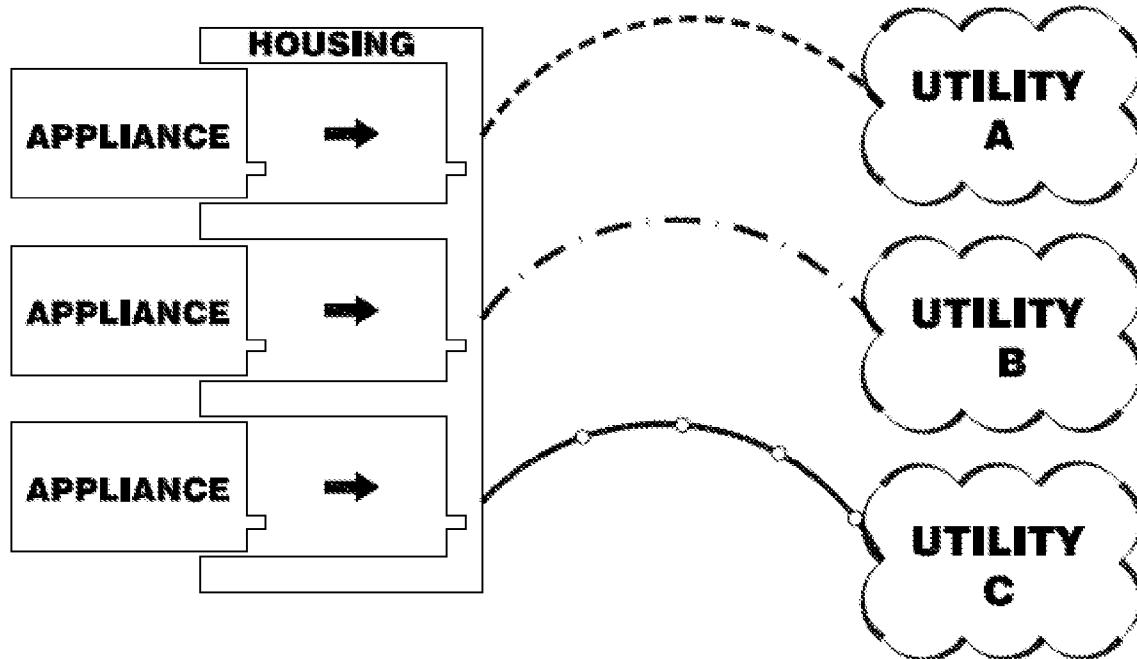
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claimed invention even apart from the cluster concept and utility chassis within the frame.

As Wilkinson only identifies a single utility source, modification of Alden et al. by Wilkinson should result in a series of appliances stacked vertically, each with the capability to directly engage a single utility format. To the extent that a direct engagement feature in Wilkinson might be included, limitations would remain as compared to the present invention as each appliance would be confined to but a single utility. Individual utility supply lines would be run from the main utility source to each appliance cavity within the housing. No fractional capabilities existing with the housing without "substantial modification." A schematic illustration of Alden et al. modified by Wilkinson is illustrated as follows:

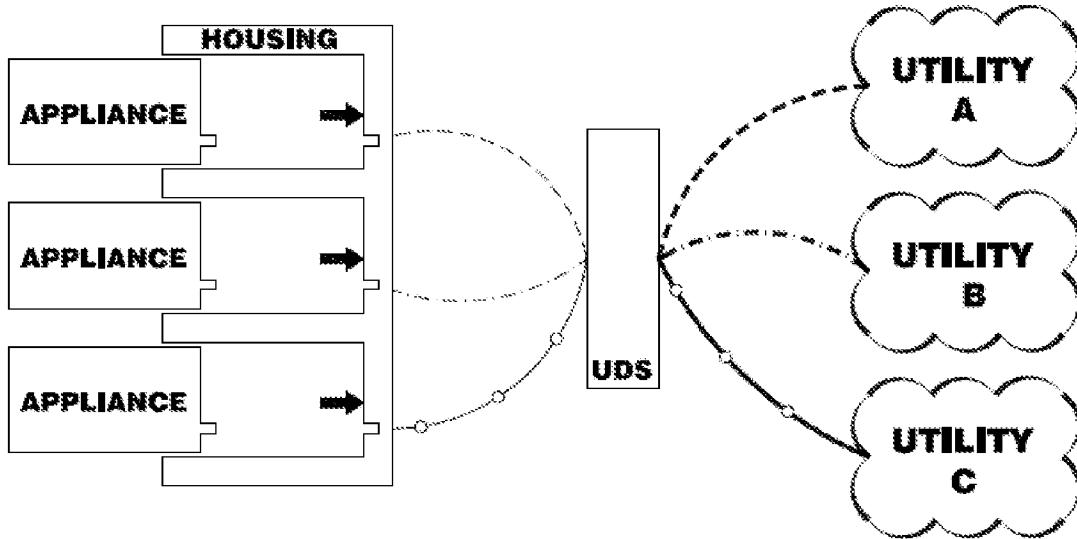


Further modifying Alden et al. and Wilkinson by MDS would still not rectify the deficiencies. As MDS is external to the equipment (housing and appliance), incorporation of this concept results in the same general configuration mentioned previously but with the added benefits of a utility distribution system. A schematic illustration of such a combination would be:

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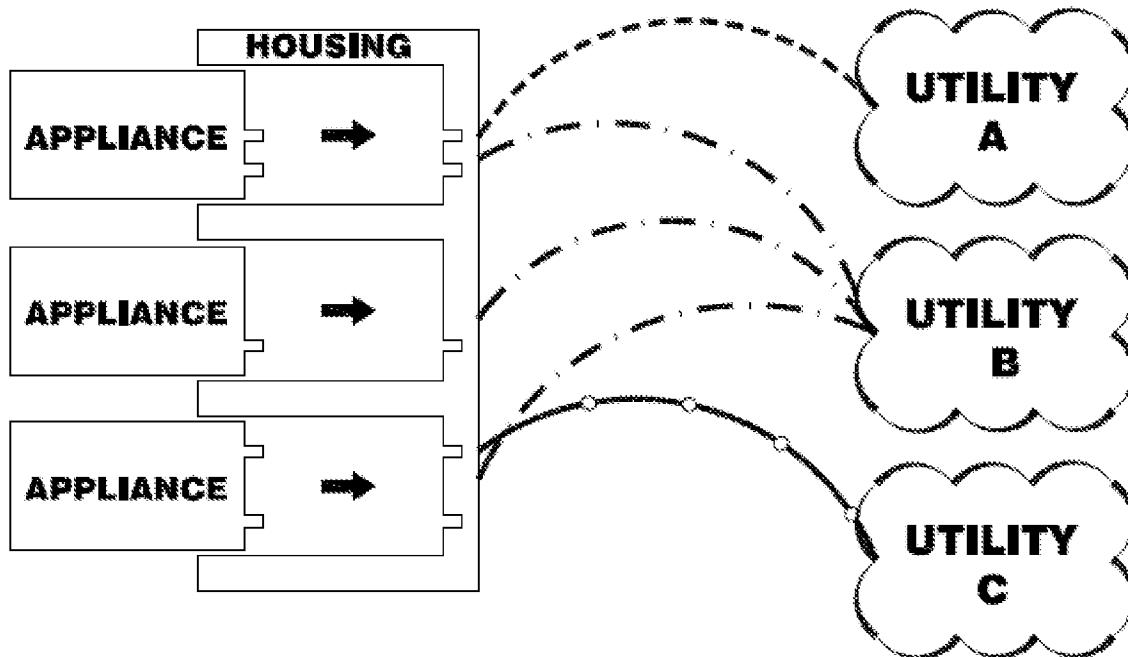


If the modification of Alden et al. by Wilkinson were done so as to afford the benefit of including multiple utilities for each appliance cavity, there still would lack the integration of multiple utilities within the same housing structure. Instead, individual utility connections to each appliance cavity would be provided on an "as needed" and customized basis. Still, there would lack uniform clusters, which limits the ability to readily relocate appliances from one cavity to another. Further, the fractional capabilities recited by claim 2 of the present application would be lacking. A schematic illustration of this modification of Alden et al. by Wilkinson that includes multiple utilities for each appliance cavity would be:

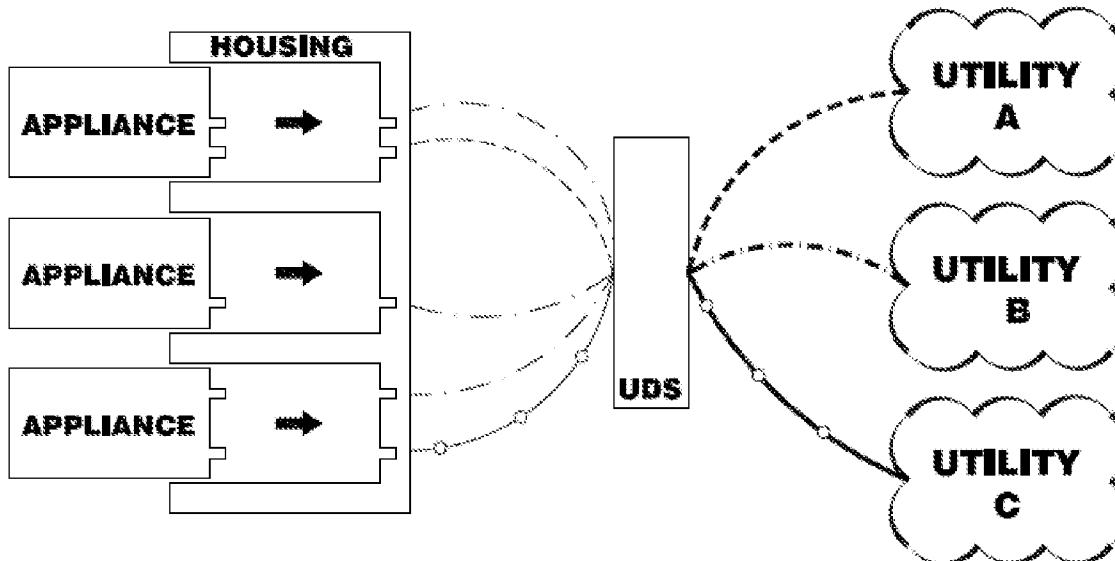
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Further modifying with MDS would still not rectify the deficiencies. As MDS is external to the equipment (housing and appliance), incorporation of this concept results in the same general configuration mentioned previously but with the added benefits of a utility distribution system. A schematic illustration of such a combination would be:



In contrast, claim 1 recites that the utility chassis be configured and arranged within the frame and that the different types of connectors be in relative positions

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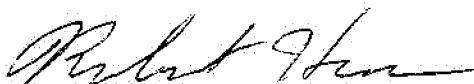
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within associated ones of the clusters in a manner that is identical for each of the clusters. For the hypothetical combination of Alden et al., Wilkinson and MDS, the utility chassis is not only outside the frame that holds the appliances, but there are no clusters of different kinds of utility connections arranged in an identical manner relative to each other. Each appliance has customized connection to utility service only "as needed", as opposed to making utility connections available as part of a cluster even in the absence of a need for some by a particular appliance. Indeed, even in the case where the same multiple utilities are needed by different appliances, there is nothing in MDS to suggest that the actual utility connection arrangement be provided in a uniform or identical manner – each is customized, perhaps due to differences in the connection port locations at the back of appliances or by customizing the connections to allow the utilities to flow through one appliance directly to another, rather than supply each appliance with utilities separately from the MDS with clusters of utility connections arranged in a uniform or identical manner.

Withdrawal of the rejection is requested.

Respectfully submitted,

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